

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7544

Respondents: WBOY-TV, LLC,
Nexstar Broadcasting, Inc.¹

Complaint Receipt Date: November 16, 2018

Response Date: December 5, 2018

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30101(9)(B)(i)
11 C.F.R. § 100.73**

The Complaint alleges that, on October 20, 2018, WBOY-TV broadcast a thirty-two minute political rally featuring Vice President Michael Pence and supporting U.S. Senate candidate Patrick Morrisey.² Respondents acknowledge that WBOY-TV broadcast the October 20, 2018, rally and assert that it was a *bona fide* newscast of an event covered by numerous other news outlets.³

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the

¹ Nexstar Broadcasting, Inc. operates WBOY-TV. See FCC TV Station Profile for WBOY-TV, available at <https://publicfiles.fcc.gov/tv-profile/wboy-tv> (last visited May 16, 2019); Resp. at 1 (Dec. 5, 2018).

² Compl. at 1 (Nov. 16, 2018).

³ Resp. at 1. Although we were unable to locate a version of the broadcast, there is no information in the record to suggest that the program was paid content, as opposed to *bona fide* news coverage. See 11 C.F.R. § 100.73.

fact that the Respondents' reporting of the rally appears to fall within the media exemption, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file and send the appropriate letters.

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6.26.19
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